

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HEATH RODRIGUEZ, }
v. Plaintiff, } Civil Action No. 05-350 Erie
PHYSICIAN ASSISTANT }
TAMMY MALLORY, et al., }
Defendant. }

MEMORANDUM ORDER

____ Plaintiff's civil rights complaint was received by the Clerk of Court on November 22, 2005 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [16], filed on January 9, 2007, recommends that the Defendants' motion to dismiss [12] be granted. The parties were allowed ten (10) days from the date of service in which to file objections. No objections were received and, on January 30, 2007, this Court entered an order [17] adopting the Report and Recommendation and dismissing the case. Thereafter, Plaintiff filed a motion for reconsideration [18] and, on January 18, 2008, this Court entered a text order which granted Plaintiff's motion, vacated the January 30, 2007 order, and granted Plaintiff fourteen days in which to file his objections, if any, to the Report and Recommendation. By order dated April 14, 2008 [22], this Court subsequently extended the deadline for objections to April 28, 2008. To date, no objections to the Report and Recommendation have been received.

AND NOW, this 29th day of May, 2008, after de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

IT IS HEREBY ORDERED that the Defendants' motion to dismiss [12] be, and hereby is, GRANTED and the complaint is DISMISSED.

The Report and Recommendation [16] of Chief Magistrate Judge Baxter, dated January 9, 2007 is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin
United States District Judge

cc: all parties of record
U.S. Magistrate Judge Baxter